

EXHIBIT 1

Page 1

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 NIRVANA L.L.C., Washington)
4 Limited Liability Company,) Case No.
5 Plaintiff,) 2:18-cv-10743
6 vs.) JAK-SK
7 MARC JACOBS INTERNATIONAL)
8 L.L.C., a Delaware Limited)
9 Liability Company; SAKS)
10 INCORPORATED, d/b/a SAKS)
11 FIFTH AVENUE, a Tennessee)
12 Corporation; NEIMAN MARCUS)
13 GROUP LIMITED, L.L.C. a)
14 Delaware Limited Liability)
15 Company; and Does 1 through)
16 10,)
17 Defendants.)
18 **REVISED**
19 DEPOSITION OF DAVID ERIC GROHL
20 TAKEN ON
21 TUESDAY, SEPTEMBER 10, 2019

22 Reported by:
23 BRENDA R. COUNTZ, RPR-CRR
24 CSR NO. 12563
25 Job No. 167662

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Deposition of DAVID ERIC GROHL taken at
the law firm of Kelley Drye & Warren LLP, 10100
Santa Monica Boulevard, 23rd Floor, Los Angeles,
California 90067, on Tuesday, September 10,
2019, before Brenda R. Countz, CSR No. 12563.

1 APPEARANCES OF COUNSEL:

2 FOR THE PLAINTIFF:

3 RIMON

4 BY: MARK LEE, ESQ.

5 JILL BERLINER, ESQ.

6 2029 Century Park East

7 Los Angeles, California 90067

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13 FOR THE DEFENDANTS MARC JACOBS INTERNATIONAL LLC,

14 SAKS INCORPORATED, d/b/a SAKS FIFTH AVENUE and

15 NEIMAN MARCUS GROUP LIMITED, LLC:

16 KELLEY DRYE & WARREN

17 BY: MICHAEL ZINNA, ESQ.

18 GEOFFREY CASTELLO, ESQ.

19 One Jefferson Road

20 Parsippany, New Jersey 07054

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1	I N D E X		
2	WITNESS	EXAMINATION BY	PAGE
3	DAVID ERIC GROHL		
4	MR. ZINNA		5
5			
6	E X H I B I T S		
7	NO.	DESCRIPTION	PAGE
8	Exhibit 1	Notice of Deposition	7
9	Exhibit 2	Complaint	8
10	Exhibit 3	Document Titled Nirvana, Inc.	20
11		Profit-Sharing Plan	
12	Exhibit 4	Nirvana, Inc. Employee Listing	22
13	Exhibit 5	Nirvana Casting Call Flier	25
14	Exhibit 6	Invitation to a Record Release	27
15		Party	
16	Exhibit 7	Limited Liability Company	32
17		Agreement of Nirvana, LLC	
18	Exhibit 8	Document Bates Stamped Nirvana	36
19		000013 through 000014	
20	Exhibit 9	Document Bates Stamped Nirvana	37
21		000016 through 000017	
22	Exhibit 10	Document Bates Stamped Nirvana	37
23		000069 through 000070	
24	Exhibit 11	Articles of Incorporation of	43
25		Nirvana, Inc.	

1 LOS ANGELES, CA - TUESDAY, SEPTEMBER 10, 2019

2 10:30 A.M.

3

4 DAVID ERIC GROHL,

5 having been first duly sworn, was
6 examined and testified as follows

7

8 MR. ZINNA: Good morning, everyone.

I'm Mike Zinna from Kelly Drye & Warren. I'm

here representing Marc Jacobs, Neiman Marcus and
Saks.

0:29:04AM

11 Saks.

12 EXAMINATION

13 BY MR. ZINNA:

Q. Could you please state your name for the record?

10:29:11AM

16 A. David Eric Grohl.

Q. Have you ever been deposed before?

18 A. I have.

Q. About how long ago?

20 A. 2002, 2001.

10:29:18AM

21 Q. Okay, I can give you a refresher, some
22 ground rules to make sure this moves smoothly and
23 quickly. It's really just a series of questions.

I'll ask the questions and you'll provide

10:29:41AM

1 Q. Moving to the left, does that appear to
2 be the front of the T-shirt?

3 A. On the left?

4 Q. Yes.

5 A. Yes.

10:43:39AM

6 Q. And do you see the word "Nirvana" above
7 the smiley face?

8 A. I do.

9 Q. Are you familiar with the particular
10 font that that is written in? 10:43:48AM

11 A. I am.

12 Q. And do you know who designed that font?

13 A. No.

14 Q. Could it have been you?

15 A. No.

10:43:55AM

16 Q. Could it have been Mr. Novoselic?

17 A. I don't know.

18 Q. Could it have been Mr. Cobain?

19 A. I don't know.

20 Q. And underneath that we have an image. 10:44:03AM

21 Do you see that?

22 A. I do.

23 Q. And can you describe that image,
24 please?

25 A. A smiley face with Xs over the eyes and 10:44:17AM

1 a tongue sticking out.

2 Q. Thank you. And who designed that face?

3 A. I don't know.

4 Q. Could it have been you?

5 A. No.

10:44:31AM

6 Q. Could it have been Mr. Novoselic?

7 A. I don't know.

8 Q. Could it have been Mr. Cobain?

9 A. I don't know.

10 Q. So if we turn back to page four of 24, 10:44:51AM

11 please, do you see paragraph 13?

12 A. I do.

13 Q. And can you read for me the first
14 sentence of that paragraph?

15 A. "Among the copyrighted works owned by 10:45:18AM

16 Nirvana is a smiley face design and logo,

17 copyright registration number VA 0000564166,

18 created by Kurt Cobain in about 1991 and

19 registered for copyright in 1993."

20 Q. Thank you. But you have no personal 10:45:38AM

21 knowledge of whether that statement is correct or

22 not?

23 A. No.

24 Q. Okay, so by 1991 Nirvana, Inc. had been

25 incorporated through articles of incorporation 10:46:08AM

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DECLARATION

2

3 I hereby declare I am the deponent in
4 the within matter; that I have read the foregoing
5 deposition and know the contents thereof, and I
6 declare that the same is true of my knowledge,
7 except as to the matters which are therein stated
8 upon my information or belief, and as to those
9 matters, I believe it to be true.

10 I declare under the penalties of perjury
11 of the State of California that the foregoing is
12 true and correct.

13 Executed on the _____ day of _____,
14 2019, at _____, California.

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W I T N E S S

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1 STATE OF CALIFORNIA) SS

2 COUNTY OF LOS ANGELES)

3 I, BRENDA R. COUNTZ, Certified Shorthand
4 Reporter No. 12563 for the State of California,
5 do hereby certify:

6 That prior to being examined, the
7 witness named in the foregoing deposition was
8 duly sworn to testify the truth, the whole truth,
9 and nothing but the truth;

10 That said deposition was taken down by
11 me in shorthand at the time and place therein
12 named and thereafter transcribed and that the
13 same is a true, correct, and complete transcript
14 of said proceedings.

15 Before completion of the deposition,
16 review of the transcript [] was [] was not
17 requested. If requested, any changes made by the
18 deponent during the period allowed are appended
19 hereto.

20 I further certify that I am not
21 interested in the outcome of the action.

22 Witness my hand this 20th day of September, 2019.

23 
24

25 _____
Brenda R. Countz, CSR No. 12563

1 ERRATA SHEET

2 Case Name:

3 Deposition Date:

4 Deponent:

5 Pg.	6 No.	7 Now Reads	8 Should Read	9 Reason
6	_____	_____	_____	_____
7	_____	_____	_____	_____
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10	_____	_____	_____	_____
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19	_____	_____	_____	_____
20				

21 Signature of Deponent

22 SUBSCRIBED AND SWORN BEFORE ME

23 THIS _____ DAY OF _____, 2019.

24 _____
25 (Notary Public) MY COMMISSION EXPIRES: _____